

MAY 1 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CESAR MONDRAGON-MARTELL, aka
Fernando Vasquez-Garcia,

Defendant - Appellant.

No. 07-10224

D.C. No. CR-06-00832-SRB

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Susan R. Bolton, District Judge, Presiding

Argued and Submitted April 18, 2008
San Francisco, California

Before: HUG, SCHROEDER, and CALLAHAN, Circuit Judges.

Cesar Mondragon-Martell (“Mondragon-Martell”) appeals his conviction and sentence for illegal re-entry after deportation. He argues his counsel was so ineffective at trial that it deprived him of his Sixth Amendment right to counsel,

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

and that the district court improperly admitted evidence of his past conviction for illegal re-entry after deportation. He also claims the Government did not present sufficient evidence to prove he was deported. Finally, he argues that, given his health issues, his prison sentence is excessive.

We only review challenges to the effectiveness of defense counsel on direct appeal where the record is sufficiently developed, or where the counsel's performance was so inadequate that the defendant was effectively denied his right to counsel. *United States v. Jeronimo*, 398 F.3d 1149, 1155-56 (9th Cir. 2005). Neither situation is present here. Accordingly, we decline to review this claim.

We also conclude that the district court did not err in admitting the evidence of his previous conviction of illegal re-entry after deportation. His argument fails here because the Government properly used this evidence to corroborate his admissions of his alienage. *See United States v. Hernandez*, 105 F.3d 1330, 1332 (9th Cir. 1997).

Additionally, Mondragon-Martell's claim that the Government did not provide ample evidence of his deportation fails because a warrant of removal can sufficiently identify and prove that he was previously deported. *See United States v. Zepeda-Martinez*, 470 F.3d 909, 913 (9th Cir. 2006) (holding that a warrant of

removal “is sufficient alone to support a finding of removal beyond a reasonable doubt”).

Finally, we review Mondragon-Martell’s sentence to determine if it is reasonable, and will only set it aside if it is “procedurally erroneous or substantively unreasonable.” *United States v. Carty*, __ F.3d __, 2008 WL 763770, *5 (9th Cir. 2008) (en banc). In this case, we conclude that the district court properly considered his health issues and that the sentence imposed was reasonable.

AFFIRMED.